

**ASSEMBLY BILL**

**No. 1351**

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**Introduced by Assembly Member Logue**

February 18, 2011

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An act to amend Section 50113.1 of the Revenue and Taxation Code, relating to underground storage tanks.

LEGISLATIVE COUNSEL'S DIGEST

AB 1351, as introduced, Logue. Underground storage tanks: fees: deficiency determinations.

Existing law requires the owner or operator of an underground petroleum storage tank, or other responsible party, to pay a specified maintenance fee for each gallon of petroleum placed in an underground storage tank that he or she owns, and to take corrective action, as defined, in response to an unauthorized release of petroleum from the tank. Existing law, the Underground Storage Tank Maintenance Fee Law requires that the State Board of Equalization administer and collect those underground storage tank fees and prescribes procedures for the administration and collection of those fees. Existing law authorizes the board, if it is dissatisfied with a specified report file or the amount of fee paid to the board under those provisions, or if no report has been filed or no payment or payments of fees have been made to the state by any fee payer, to compute and determine the amount of fees to be paid, based on any information available to it. In the case of the failure to make a related report or return, existing law requires every notice of determination of an amount due to be given within 8 years after the date that the report or return was due.

This bill would require, if the board finds that the person who currently owns an underground storage tank failed to make a report or return

because he or she was a qualified absentee owner of an underground storage tank, the notice of determination to be mailed within 3 years after the date the amount was required to have been paid or the report was due. The bill would require, if the board finds that the person does not currently own the underground storage tank and failed to make a report or return because he or she was a qualified absentee owner of an underground storage tank, the notice of determination to be mailed within 8 years after the amount was required to have been paid or the report or return was due, but would require the notice of determination to include only amounts due that arose during the owner's final 3 years of owning the underground storage tank. The bill would define the term "qualified absentee owner" for purposes of those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 50113.1 of the Revenue and Taxation  
2 Code is amended to read:  
3 50113.1. (a) Except in the case of fraud, intent to evade this  
4 part; or *the* rules and regulations adopted pursuant to this part, or  
5 failure to make a report or return, every notice of a determination  
6 of an additional amount due shall be given within three years after  
7 the date when the amount was required to have been paid or the  
8 report or return was due, or within three years after the report or  
9 return was filed, whichever period expires later. ~~In the~~  
10 (b) *Except as provided in subdivision (c), in the* case of failure  
11 to make a report or return, the notice of determination shall be  
12 mailed within eight years after the date the report or return was  
13 due.  
14 (c) *Notwithstanding subdivision (b), either of the following shall*  
15 *apply:*  
16 (1) *If the board finds that the person owns the underground*  
17 *storage tank and failed to make a report or return because he or*  
18 *she was a qualified absentee owner of the underground storage*  
19 *tank, the notice of determination shall be mailed within three years*  
20 *after the date the amount was required to have been paid or the*  
21 *report or return was due.*  
22 (2) *If the board finds that the person does not own the*  
23 *underground storage tank and failed to make a report or return*

1 *because he or she was a qualified absentee owner of the*  
2 *underground storage tank at the time the report or return was due,*  
3 *the notice of determination shall be mailed within eight years after*  
4 *the date the amount was required to have been paid or the report*  
5 *or return was due, but the notice of determination shall only*  
6 *include amounts due that arose during the owner's final three*  
7 *years of underground storage tank ownership.*

8 *(3) For purposes of this section, "qualified absentee owner"*  
9 *means the owner of an underground storage tank at the time the*  
10 *report or return was due who meets all of the following criteria:*

11 *(A) The owner was not the operator, as defined by Section*  
12 *25299.20 of the Health and Safety Code, of the underground*  
13 *storage tank system.*

14 *(B) The owner had no ownership interest in the person who was*  
15 *the operator of the underground storage tank system.*

16 *(C) The owner establishes that he or she did not know of, and*  
17 *could not have reasonably known of, the requirement to register*  
18 *with the board as an owner of an underground storage tank.*

19 *(D) (i) The board did not have contact with the owner of the*  
20 *underground storage tank regarding the requirement that the*  
21 *owner register with the board prior to the relevant time period*  
22 *described in paragraph (1) or (2).*

23 *(ii) If the board did have contact with the owner of the*  
24 *underground storage tank prior to the relevant time period*  
25 *described in paragraph (1) or (2), the owner is liable for the fee*  
26 *for the period beginning on the date of that contact to the date the*  
27 *notice of determination was mailed.*

28 *(d) (1) If the notice of determination was mailed pursuant to*  
29 *subdivision (b), paragraphs (1) and (2) of subdivision (c) shall*  
30 *only apply to that notice of determination if it was issued on or*  
31 *after January 1, 2012.*

32 *(2) If the notice of determination was not mailed pursuant to*  
33 *subdivision (b), paragraphs (1) and (2) of subdivision (c) shall*  
34 *only apply if either of the following occurs on or after January 1,*  
35 *2012:*

36 *(A) First contact is made between the board and the owner.*

- 1     *(B) The board mails returns to the owner for the periods during*
- 2     *which, up to eight years, the owner owned the underground storage*
- 3     *tank.*